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**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON**

<b>TOM GARDNER,</b>	)	Case No. CV-11-3058-LRS
	)	
Plaintiff,	)	<b>COMPLAINT FOR VIOLATION</b>
	)	<b>OF FEDERAL FAIR DEBT</b>
vs.	)	<b>COLLECTION PRACTICES ACT</b>
	)	
<b>NCO FINANCIAL SYSTEMS, INC.,</b>	)	
	)	
Defendant.	)	
	)	

**NATURE OF ACTION**

1. This is an action brought under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.*

**JURISDICTION AND VENUE**

2. This Court has jurisdiction under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.

3. Venue is proper before this Court pursuant to 28 U.S.C. §1391(b),

COMPLAINT FOR VIOLATIONS OF THE FAIR  
DEBT COLLECTION PRACTICES ACT-1

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1 where the acts and transactions giving rise to Plaintiff's action occurred in this  
2 district, (where Plaintiff resides in this district), and/or where Defendant transacts  
3 business in this district.  
4

## 5 **PARTIES**

6  
7 4. Plaintiff, Tom Gardner ("Plaintiff"), is a natural person who at all  
8 relevant times resided in the State of Washington, County of Yakima, and City of  
9 Yakima.  
10

11 5. Plaintiff is a "consumer" as defined by 15 U.S.C. § 1692a(3).

12 6. Defendant, NCO Financial Systems, Inc. ("Defendant") is an entity  
13 who at all relevant times was engaged, by use of the mails and telephone, in the  
14 business of attempting to collect a "debt" from Plaintiff, as defined by 15 U.S.C.  
15 §1692a(5).  
16  
17

18 7. Defendant is a "debt collector" as defined by 15 U.S.C. § 1692a(6).  
19

## 20 **FACTUAL ALLEGATIONS**

21 8. Plaintiff is a natural person obligated, or allegedly obligated, to pay a  
22 debt owed or due, or asserted to be owed or due a creditor other than Defendant.  
23

24 9. Plaintiff's obligation, or alleged obligation, owed or due, or asserted  
25 to be owed or due a creditor other than Defendant, arises from a transaction in  
26 which the money, property, insurance, or services that are the subject of the  
27

1 transaction were incurred primarily for personal, family, or household purposes.  
2 Plaintiff incurred the obligation, or alleged obligation, owed or due, or asserted to  
3 be owed or due a creditor other than Defendant.  
4

5 10. Defendant uses instrumentalities of interstate commerce or the mails  
6 in a business the principal purpose of which is the collection of any debts, and/or  
7 regularly collects or attempts to collect, directly or indirectly, debts owed or due,  
8 or asserted to be owed or due another.  
9  
10

11 11. In connection with the collection of an alleged debt, Defendant, via  
12 its agent and/or employee "Loraina," placed a call to Plaintiff's residential  
13 telephone on March 30, 2011 @ 10:50 A.M., and at such time, left a voicemail  
14 message for Plaintiff in which Defendant failed to disclose its true corporate  
15 and/or business name. (15 U.S.C. § 1692d(6)).  
16  
17

18 12. In connection with the collection of an alleged debt, Defendant,  
19 placed phone calls to Plaintiff's cell phone on March 15, 2011 @ 12:19 pm and  
20 March 25, 2011 @ 9:40 am, and at such time, left voicemail messages for Plaintiff  
21 in which Defendant failed to disclose its true corporate and/or business name. (15  
22 U.S.C. § 1692d(6)).  
23  
24

25 13. Plaintiff placed a non-emergency telephone call using an automatic  
26 telephone dialing system to Plaintiff's cell phone, without Plaintiff's prior express  
27

1 consent, for which Plaintiff was charged for the call. (47 U.S.C. §  
2 227(b)(1)(A)(iii).  
3

4 14. Where Defendant had not yet made an attempt to contact Plaintiff's  
5 counsel, and where Plaintiff's counsel had not given Defendant permission to  
6 contact Plaintiff directly, Defendant communicated with Plaintiff directly after  
7 learning that Plaintiff is being represented by counsel (§ 1692c(a)(2)).  
8

9 15. Defendant's actions constitute conduct highly offensive to a  
10 reasonable person.  
11

## 12 COUNT I

13 16. Plaintiff repeats and re-alleges each and every allegation contained  
14 above.  
15

16 17. Defendant violated the FDCPA as detailed above.  
17

18 WHEREFORE, Plaintiff prays for relief and judgment, as follows:  
19

- 20 a) Adjudging that Defendant violated the FDCPA;  
21 b) Awarding Plaintiff statutory damages, pursuant to 15 U.S.C. §1692k,  
22 in the amount of \$1,000.00;  
23 c) Awarding Plaintiff actual damages, pursuant to 15 U.S.C. §1692k;  
24 d) Awarding Plaintiff reasonable attorneys' fees and costs incurred in  
25 this action;  
26  
27

- 1 e) Awarding Plaintiff any pre-judgment and post-judgment interest as  
2 may be allowed under the law;  
3  
4 f) Awarding such other and further relief as the Court may deem just  
5 and proper.  
6

7 **TRIAL BY JURY**

8 Plaintiff is entitled to and hereby demands a trial by jury.  
9

10 Respectfully submitted this 18th day of May, 2011.  
11

12  
13 s/Jon N. Robbins  
14 Jon N. Robbins  
15 WEISBERG & MEYERS, LLC  
16 Attorney for Plaintiff  
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